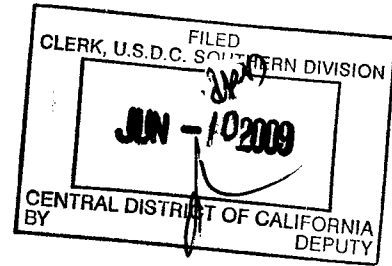


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DEPUTY CLERK



# UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

ROBERT GARBER,

Plaintiff,

vs.

JOSE FLORES, et al.,

Defendants.

Case No. CV 08-4208-DDP (RNB)

ORDER ADOPTING FINDINGS,  
CONCLUSIONS, AND  
RECOMMENDATIONS OF UNITED  
STATES MAGISTRATE JUDGE; AND  
DENYING PLAINTIFF'S REQUEST  
FOR JUDICIAL NOTICE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the pleadings and all the records and files herein, along with the Report and Recommendation of the United States Magistrate Judge with respect to defendants' Motion to Dismiss (the "Motion"). Plaintiff has filed a statement of objections to the Report and Recommendation, along with another request for judicial notice. Defendants have filed a response to plaintiff's objections and opposition to plaintiff's request for judicial notice. Having made a de novo determination of those portions of the Report and Recommendation to which objections have been made, the Court concurs with and adopts the findings, conclusions and recommendations of the Magistrate Judge.

IT THEREFORE IS ORDERED that:

1. Plaintiff's request that the Court take judicial notice of his own list of encounters with the police (item no. 1) is denied because plaintiff's own

1 characterization of the matters reflected in his chart does not qualify as a matter that  
2 is “not subject to reasonable dispute.” See Fed. R. Evid. 201(b). Likewise to the  
3 extent that plaintiff is requesting that the Court take judicial notice of the first page  
4 of a court filing in Los Angeles Superior Court Case No. S 03-0140 (item no. 2) for  
5 the truth of any statements contained therein, plaintiff’s request is denied because the  
6 truth of such statements does not constitute a matter “not subject to reasonable  
7 dispute.” See also M/V American Queen v. San Diego Marine Constr. Corp., 708  
8 F.2d 1483, 1491 (9th Cir. 1983) (stating the general rule that “a court may not take  
9 judicial notice of proceedings or records in another cause so as to supply, without  
10 formal introduction of evidence, facts essential to support a contention in a cause then  
11 before it”). Further, this document is not relevant to the issue of whether plaintiff’s  
12 allegations are sufficient to state a claim for relief. For the same reasons, plaintiff’s  
13 request that the Court take judicial notice of the hearing examiner report (item no. 6)  
14 is denied. Likewise, to the extent that plaintiff is requesting that the Court take  
15 judicial notice of the records of proceedings in Los Angeles Superior Court Case Nos.  
16 6PN02097, 5PN05498, 6PY07114, 7PY06254, and 6PY07114 (item nos. 3, 5, 7, 8,  
17 and 13) for the truth of plaintiff’s characterization of those proceedings, plaintiff’s  
18 request is denied because plaintiff’s characterization does not qualify as a matter that  
19 is “not subject to reasonable dispute.” Nor are any of those documents relevant to the  
20 issue of whether plaintiff’s allegations are sufficient to state a claim for relief.  
21 Plaintiff’s request that the Court take judicial notice of what plaintiff has  
22 characterized as pages from the L.A. County Consolidated Criminal History System  
23 (item no. 4) is denied because the pages are not self-authenticating. Nor is that  
24 document relevant to the issue of whether plaintiff’s allegations are sufficient to state  
25 a claim for relief. Plaintiff’s request that the Court take judicial notice of the City  
26 Attorney’s discovery response to a request for discovery made by plaintiff (item no.  
27 9) is denied because the document is not self-authenticating and the so-called  
28 response to discovery is not verified. Nor is that document relevant to the issue of

1 whether plaintiff's allegations are sufficient to state a claim for relief. Plaintiff's  
2 request that the Court take judicial notice of the fact that the June 19, 2007 citation  
3 was "dismissed because mechanical defects cited were corrected and signed off by  
4 CHP" (item no. 10) is denied as unnecessary since the Magistrate Judge already took  
5 judicial notice of that fact. Plaintiff's request that the Court take judicial notice of a  
6 Superior Court record indicating that one of his parking violations was reversed (item  
7 no. 11) is denied because this document is not relevant to the issue of whether  
8 plaintiff's allegations are sufficient to state a claim for relief. For the same reason,  
9 plaintiff's request that the Court take judicial notice of the records of proceedings in  
10 Los Angeles Superior Court Case No. 8PY05650 (item no. 12), of Citation No.  
11 429455 dated July 18, 2008 (item no. 13), of the printout relating to Citation No.  
12 20056 (item no. 14), and of the County of Mental Health letter dated May 15, 2007  
13 (item no. 15) is denied. Finally, to the extent that plaintiff is requesting that the Court  
14 take judicial notice of his letter to the Magistrate Judge dated July 31, 2008, which  
15 was not accepted for filing pursuant to Local Rule 83-2.11 (item no. 16) and his letter  
16 to the Chief of the Office of Public Safety dated September 20, 2008 (item no. 17) for  
17 the truth of any of plaintiff's statements contained therein, plaintiff's request is denied  
18 because the truth of such statements does not constitute a matter "not subject to  
19 reasonable dispute."

20 2. The Motion is granted.

21 3. Plaintiff's federal civil rights claims are dismissed without leave to  
22 amend.

23 4. Plaintiff's state law claims are dismissed without prejudice to plaintiff  
24 raising such claims, if any, in state court.

25 5. Judgment be entered dismissing this action.

26  
27 DATED: 6-8-09

  
28 DEAN D. PREGERSON  
UNITED STATES DISTRICT JUDGE